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February 8, 2005

The Honorable Bill Nelson
United States Senate
716 Hart Office Building
Washington, DC 20510-0905.

Dear Senator Nelson:

On behalf of the American Bar Association, I commend you for your leadership in introducing the Advance Directives Improvement and Education Act of 2005. The proposed Act would take needed steps toward ensuring that every adult's health care wishes are known and respected by his or her physician and by other health care providers, both within one's home state and across state lines.

This proposed Act builds upon the foundation put in place by the Patient Self Determination Act of 1990 (the PSDA), which amended federal Medicare and Medicaid law. The ABA actively supported the enactment of the PSDA, as well as subsequent legislative proposals to strengthen the PSDA by mandating the availability of counseling to patients regarding health care advance directives and by ensuring the portability of advance directives across the states. The bill you have crafted has picked up the torch and provides a fresh, direct, and common sense approach to improving advance planning for health care.

Under the proposed Act, Medicare and Medicaid law would acknowledge, for the first time, the necessity of physician consultations with patients explicitly for the purpose of advance care planning and would provide coverage for this essential task.

Further, the proposed Act would provide for the portability of advance directives across state lines. A frequent concern voiced by seniors involves the validity of their advance directives outside their home state. There is no reason for there to be any doubt that one's explicit wishes regarding health care will be respected regardless of geographic location. This Act once and for all would put this concern to rest.

Finally, this legislation provides for needed funding to increase public awareness about advance directives and to improve access to information about them.

The ABA has been on record in support of advance planning legal tools since its recognition of the Uniform Rights of the Terminally Ill Act in 1986 and the subsequent Uniform Health-Care Decisions Act of 1994. The ABA House of Delegates also adopted a policy statement in 1989 encouraging the use and recognition of durable powers of attorney for health care.

The Advance Directives Improvement and Education Act of 2005 responsibly advances these long-standing and worthy goals by building upon the solid foundation of the Patient Self-Determination Act. The ABA supports this legislation and stands ready to be a resource in advancing your important effort.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans". The signature is written in black ink and is positioned to the left of the printed name.

Robert D. Evans